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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,542	08/07/2006	Takayuki Hida	2006_1298A	5101
513 7590 05/01/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER LANDSMAN, ROBERT S				
ART UNIT		PAPER NUMBER		
1647				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/588,542

**Applicant(s)**

HIDA ET AL.

**Examiner**

Robert Landsman

**Art Unit**

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36, 38, 40, 42, 44 and 47-52 is/are pending in the application.
- 4a) Of the above claim(s) 4-13, 16-35 and 47-52 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 3, 36, 38, 40, 42 and 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***1. Formal Matters***

- A. The Amendment filed 3/17/09 has been entered into the record.
- B. Claims 1-36, 38, 40, 42, 44 and 47-52 are pending. Claims 4-13, 16-35 and 47-52 are withdrawn as being drawn to a non-elected invention. Claims 1-3, 14, 15, 36, 38, 40, 42 and 44 are the subject of this Office Action.

### ***2. Specification***

- A. The objection to the specification has been withdrawn in view of Applicants amendment.
- B. The objection to the Abstract has been withdrawn in view of Applicant's submission of a proper Abstract.
- C. The objection to the specification has been withdrawn in view of Applicants' amendments to the Brief Description of the Figures.

### ***3. Claim Objections***

- A. Applicants have canceled all claims objected to in the previous Office Action.

### ***4. Claim Rejections - 35 USC § 112, first paragraph – scope of enablement***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- A. The rejection of claims 1 and 2 under 35 USC 112, first paragraph, has been withdrawn in view of Applicants' arguments. However, claim 3 (item 4A) remains rejected for the reasons already of record on page 4 of the Office Action mailed 10/17/08. Applicants do not provide any arguments regarding "fat weight" recited in claim 3.

B. The rejection of claims 14 and 15 has been withdrawn in view of Applicants' amendment to claim 14 deleting "treating a disease" and s to limit the claims to

C. The rejection of claims 36-46 has been withdrawn in view of Applicants' cancellation of, or amendments to the claims to recite specific compounds.

D. Claim 36, 38, 40, 42 and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Upon further review of the specification, the Examiner is unable to find any data (guidance or working examples) showing that relaxin-3 antagonists are able to reduce feeding, body weight, fat weigh, or are able to treat obesity and diabetes. While it is true that the specification does show relaxin-3 can increase feeding and improve weight gain, it is not necessarily predictable that antagonists to this receptor would necessarily have the opposite effect. It is well known in the art that antagonists do block the effect of agonists. Therefore, it would be expected that relaxin-3 antagonists would block the effects of relaxin-3-induced weight gain and feeding. However, it is not predictable to the artisan that using a relaxin-3 antagonist in an overweight animal for reasons not necessarily caused by relaxin-3 would lead to weight loss and reduced feeding.

A similar argument can be made regarding treating obesity and diabetes. Applicants do show that relaxin-3 increases leptin levels in Wistar rats. However, there is no guidance or working examples showing that relaxin-3 antagonists would actually reduce leptin levels, or treat obesity or diabetes.

## ***5. Conclusion***

A. Claims 1, 2, 14 and 15 are allowable.

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***Advisory information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Landsman, Ph.D. whose telephone number is (571) 272-0888. The examiner can normally be reached on M-F 10 AM – 6:30 PM (eastern).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert Landsman/  
Primary Examiner, Art Unit 1647